

LEWIS
AND
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LLP
LAWYERS

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E-Filed on 2/3/10

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5 Attorneys for USACM Liquidating Trust

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8 **UNITED STATES BANKRUPTCY COURT**
DISTRICT OF NEVADA

9

10 In re:

11 USA Commercial Mortgage Company,

12 USA Capital Realty Advisors, LLC,¹

13 USA Capital Diversified Trust Deed Fund,
LLC,

14 USA Capital First Trust Deed Fund, LLC,²

15 USA Securities, LLC,³

16 Debtors.

17 **Affects:**

- All Debtors
- USA Commercial Mortgage Company
- USA Capital Realty Advisors, LLC
- USA Capital Diversified Trust Deed Fund, LLC
- USA Capital First Trust Deed Fund, LLC
- USA Securities, LLC

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR¹
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR²
Case No. BK-S-06-10729-LBR³

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**Stipulation to Reinstate Proof of Claim
Filed by Melvin W. Kerner, Trustee of
the Kerner Revocable Trust as it
Relates to Placer Vineyards
Investment**

21 USACM Liquidating Trust (the “USACM Trust”), by and through its counsel,
22 Lewis and Roca LLP, and Melvin W. Kerner, Trustee of the Kerner Revocable Trust
23 3/16/81 (“Kerner”), hereby stipulate:

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¹ This bankruptcy case was closed on September 23, 2008.

² This bankruptcy case was closed on October 12, 2007.

³ This bankruptcy case was closed on December 21, 2007

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1 1. Kerner filed proof of claim No. 10725-02288 in the amount of \$50,746.42
 2 unsecured and \$50,746.52 secured. Attached to the Proof of claim were loan statements
 3 for Roam Development and Placer Vineyards.

4 2. The claim was reclassified as an unsecured claim in the amount of
 5 \$101,493.04.

6 3. Pursuant to an order of the Court [DE 7699], the Double Counted portion
 7 of the Kerner claim of \$50,746.52 was disallowed.

8 4. Pursuant to objection and order on Roam Development [DE 6875], the
 9 Claim in amount of \$49,368.54 related to Roam Development was disallowed, and
 10 \$631.36 of Unremitted Principal was allowed as an unsecured claim. Consequently, all
 11 but about \$100 of the claim was resolved.

12 5. Kerner contacted Counsel for the Trust and explained that he also intended
 13 to file a claim for \$50,000 based upon an investment in the Placer Vineyards Loan. That
 14 claim was effectively disallowed as a duplicate claim.

15 6. Accordingly, the USACM Trust agrees to reinstate Kerner claim no. 10725-
 16 02288 as an unsecured non-priority claim in the amount of \$50,000.00, based upon an
 17 investment in the Placer Vineyards Loan. The claim is subject to further objection.

19 LEWIS AND ROCA LLP

20 By s/John Hinderaker
 21 Rob Charles NV (#6593)
 22 John Hinderaker (AZ 18024
 23 *pro hac vice*)
 24 Attorneys for USACM Liquidating
 Trust

25 DATED: February 3, 2010

20 MELVIN W. KERNER
 21 TRUSTEE OF THE KERNER
 22 REVOCABLE TRUST 3/16/81

23 By: s/ Melvin W. Kerner,
 24 2012 Mesquite Ct..
 25 Carlsbad, CA 92009-6883

26 DATED: February , 2010.

FROM :

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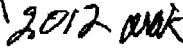
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17
18 LEWIS AND ROCA LLPMELVIN W. KERNER
 TRUSTEE OF THE
 KERNER REVOCABLE
 TRUST 3/16/8119
20 By s/John
Hinderaker21 Rob Charles NV
 (#6593)
 18024 John Hinderaker (AZ
 pro hac vice)
 Attorneys for USACM
 Liquidating Trust22 By: s/ Melvin W.
Kemer
 2012 Mesquite Ct.
 Carlsbad, CA 92009-6883


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24 DATED: February 3, 2010
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